

**ASSEMBLY BILL**

**No. 1238**

**Introduced by Assembly Member Firebaugh**

February 21, 2003

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An act to amend Section 34501.12 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1238, as introduced, Firebaugh. Vehicles: terminal inspections.

(1) Existing law requires the Department of the California Highway Patrol to inspect, at least every 25 months, every terminal of a motor carrier, as defined, who directs the operation of or maintains a commercial vehicle in this state, as specified.

This bill, additionally, would require the department to inspect every terminal prior to granting an original motor carrier permit. The bill would specify that it is unlawful for a motor carrier to operate a motor vehicle subject to these provisions prior to having submitted to the specified initial inspection and receiving a safety compliance report for that inspection. Because a violation of this provision would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 34501.12 of the Vehicle Code is  
2 amended to read:

3 34501.12. (a) Notwithstanding Section 408, as used in this  
4 section and Sections 34505.5 and 34505.6, “motor carrier” means  
5 the registered owner of any vehicle described in subdivision (a),  
6 (b), (e), (f), or (g) of Section 34500, except in the following  
7 circumstances:

8 (1) The registered owner leases the vehicle to another person  
9 for a term of more than four months. If the lease is for more than  
10 four months, the lessee is the motor carrier.

11 (2) The registered owner operates the vehicle exclusively  
12 under the authority and direction of another person. If the  
13 operation is exclusively under the authority and direction of  
14 another person, that other person may assume the responsibilities  
15 as the motor carrier. If not so assumed, the registered owner is the  
16 motor carrier. A person who assumes the motor carrier  
17 responsibilities of another pursuant to subdivision (b) shall  
18 provide to that other person whose motor carrier responsibility is  
19 so assumed, a completed copy of a department form documenting  
20 that assumption, stating the period for which responsibility is  
21 assumed, and signed by an agent of the assuming person. A legible  
22 copy shall be carried in each vehicle or combination of vehicles  
23 operated on the highway during the period for which responsibility  
24 is assumed. That copy shall be presented upon request by any  
25 authorized employee of the department. The original completed  
26 departmental form documenting the assumption shall be provided  
27 to the department within 30 days of the assumption. If the  
28 assumption of responsibility is terminated, the person who had  
29 assumed responsibility shall so notify the department in writing  
30 within 30 days of the termination.

31 (b) (1) A motor carrier may combine two or more terminals for  
32 purposes of the inspection required by subdivision (d) subject to  
33 all of the following conditions:

34 (A) The carrier identifies to the department, in writing, each  
35 terminal proposed to be included in the combination of terminals



for purposes of this subdivision prior to an inspection of the designated terminal pursuant to subdivision (d).

(B) The carrier provides the department, prior to the inspection of the designated terminal pursuant to subdivision (d), a written listing of all its vehicles of a type subject to subdivision (a), (b), (e), (f), or (g) of Section 34500 that are based at each of the terminals combined for purposes of this subdivision. The listing shall specify the number of vehicles of each type at each terminal.

(C) The carrier provides to the department at the designated terminal during the inspection all maintenance records and driver records and a representative sample of vehicles based at each of the terminals included within the combination of terminals.

(2) If the carrier fails to provide the maintenance records, driver records, and representative sample of vehicles pursuant to subparagraph (C) of paragraph (1), the department shall assign the carrier an unsatisfactory terminal rating and require a reinspection to be conducted pursuant to subdivision (h).

(3) For purposes of this subdivision, the following terms have the meanings given:

(A) “Driver records” includes pull notice system records, driver proficiency records, and driver timekeeping records.

(B) “Maintenance records” includes all required maintenance, lubrication, and repair records and drivers’ daily vehicle condition reports.

(C) “Representative sample” means the following, applied separately to the carrier’s fleet of motortrucks and truck tractors and its fleet of trailers:

Fleet Size	Representative Sample
1 or 2	All
3 to 8	3
9 to 15	4
16 to 25	6
26 to 50	9
51 to 90	14
91 or more	20

(c) Each motor carrier who, in this state, directs the operation of, or maintains, any vehicle of a type described in subdivision (a)

1 shall designate one or more terminals, as defined in Section 34515,  
2 in this state where vehicles can be inspected by the department  
3 pursuant to paragraph (4) of subdivision (a) of Section 34501 and  
4 where vehicle inspection and maintenance records and driver  
5 records will be made available for inspection.

6 (d) (1) The department shall inspect, *prior to granting an*  
7 *original motor carrier permit, and* at least every 25 months  
8 *thereafter*, every terminal, as defined in Section 34515, of any  
9 motor carrier who, at any time, operates any vehicle described in  
10 subdivision (a).

11 (2) The department shall place an inspection priority on those  
12 terminals operating vehicles listed in subdivision (g) of Section  
13 34500.

14 (3) As used in this section and in Sections 34505.5 and  
15 34505.6, subdivision (f) of Section 34500 includes only those  
16 combinations where the gross vehicle weight rating (GVWR) of  
17 the towing vehicle exceeds 10,000 pounds, but does not include a  
18 pickup truck, and subdivision (g) of Section 34500 includes only  
19 those vehicles transporting hazardous material for which the  
20 display of placards is required pursuant to Section 27903, a license  
21 is required pursuant to Section 32000.5, or for which hazardous  
22 waste transporter registration is required pursuant to Section  
23 25163 of the Health and Safety Code. Historical vehicles, as  
24 described in Section 5004, vehicles that display special  
25 identification plates in accordance with Section 5011, implements  
26 of husbandry and farm vehicles, as defined in Chapter 1  
27 (commencing with Section 36000) of Division 16, and vehicles  
28 owned or operated by an agency of the federal government are not  
29 subject to this section or to Sections 34505.5 and 34505.6.

30 (e) (1) It is the responsibility of the motor carrier to schedule  
31 with the department the inspection required by subdivision (d).  
32 The motor carrier shall submit an application form supplied by the  
33 department, accompanied by the required fee. The fee, which is  
34 nonrefundable, is four hundred dollars (\$400) per terminal, except  
35 in the case of an owner-operator, or a nonregulated motor carrier  
36 who owns, leases, or otherwise operates not more than one heavy  
37 power unit and not more than three towed vehicles described in  
38 subdivision (a), (b), (e), (f), or (g) of Section 34500, for which the  
39 fee shall be one hundred dollars (\$100). Federal, state, and local



1 public entities are exempt from the fee requirements of this  
2 section.

3 (2) Except as provided in paragraph (4), the inspection term for  
4 each inspected terminal of a motor carrier shall expire 25 months  
5 from the date the terminal receives a satisfactory compliance  
6 rating, as specified in subdivision (h). Applications and fees for  
7 subsequent inspections shall be submitted not earlier than nine  
8 months and not later than seven months before the expiration of the  
9 motor carrier's then current inspection term. If the motor carrier  
10 has submitted the inspection application and the required  
11 accompanying fees, but the department is unable to complete the  
12 inspection within the 25-month inspection period, then no  
13 additional fee shall be required for the inspection requested in the  
14 original application.

15 (3) All fees collected pursuant to this subdivision shall be  
16 deposited in the Motor Vehicle Account in the State Transportation  
17 Fund. An amount equal to the fees collected shall be available for  
18 appropriation by the Legislature from the Motor Vehicle Account  
19 to the department for the purpose of conducting truck terminal  
20 inspections and for the additional roadside safety inspections  
21 required by Section 34514.

22 (4) To avoid the scheduling of a renewal terminal inspection  
23 pursuant to this section during a carrier's seasonal peak business  
24 periods, the current inspection term of a terminal that has paid all  
25 required fees and has been rated satisfactory in its last inspection  
26 may be reduced by not more than nine months if a written request  
27 is submitted by the carrier to the department at least four months  
28 prior to the desired inspection month, or at the time of payment of  
29 renewal inspection fees in compliance with paragraph (2),  
30 whichever date is earlier. A motor carrier may request this  
31 adjustment of the inspection term during any inspection cycle. A  
32 request made pursuant to this paragraph shall not result in a fee  
33 proration and does not relieve the carrier from the requirements of  
34 paragraph (2).

35 (f) It is unlawful for a motor carrier to operate any vehicle  
36 subject to this section without having submitted an inspection  
37 application and the required fees to the department as required by  
38 subdivision (e) or (h).

39 (g) (1) *It is unlawful for a motor carrier to operate a motor*  
40 *vehicle subject to this section prior to having submitted to the*

1 *initial inspection described in subdivision (d) and receiving a*  
2 *safety compliance report for that inspection.*

3 (2) It is unlawful for any motor carrier to operate any vehicle  
4 subject to this section after submitting an inspection application to  
5 the department, without the inspection described in subdivision  
6 (d) having been performed and a safety compliance report having  
7 been issued to the motor carrier within the 25-month inspection  
8 period or within 60 days immediately preceding the inspection  
9 period.

10 (h) (1) Any inspected terminal that receives an unsatisfactory  
11 compliance rating shall be reinspected within 120 days after the  
12 issuance of the unsatisfactory compliance rating.

13 (2) A terminal's first required reinspection under this  
14 subdivision shall be without charge unless one or more of the  
15 following is established:

16 (A) The motor carrier's operation presented an imminent  
17 danger to public safety.

18 (B) The motor carrier was not in compliance with the  
19 requirement to enroll all drivers in the pull notice program  
20 pursuant to Section 1808.1.

21 (C) The motor carrier failed to provide all required records and  
22 vehicles for a consolidated inspection pursuant to subdivision (b).

23 (3) If the unsatisfactory rating was assigned for any of the  
24 reasons set forth in paragraph (2), the carrier shall submit the  
25 required fee as provided in paragraph (4).

26 (4) Applications for reinspection pursuant to paragraph (3) or  
27 for second and subsequent consecutive reinspections under this  
28 subdivision shall be accompanied by the fee specified in paragraph  
29 (1) of subdivision (e) and shall be filed within 60 days of issuance  
30 of the unsatisfactory compliance rating. The reinspection fee is  
31 nonrefundable.

32 (5) When a motor carrier's Motor Carrier of Property Permit or  
33 Public Utilities Commission operating authority is suspended as  
34 a result of an unsatisfactory compliance rating, the department  
35 shall conduct no reinspection until requested to do so by the  
36 Department of Motor Vehicles or the Public Utilities Commission,  
37 as appropriate.

38 (i) It is the intent of the Legislature that the department make  
39 its best efforts to inspect terminals within the resources provided.  
40 In the interest of the state, the Commissioner of the California

1 Highway Patrol may extend for a period not to exceed six months  
2 the inspection terms beginning prior to July 1, 1990.

3 (j) To encourage motor carriers to attain continuous  
4 satisfactory compliance ratings, the department may establish and  
5 implement an incentive program consisting of the following:

6 (1) After the second consecutive satisfactory compliance rating  
7 assigned to a motor carrier terminal as a result of an inspection  
8 conducted pursuant to subdivision (d), and after each consecutive  
9 satisfactory compliance rating thereafter, an appropriate  
10 certificate, denoting the number of consecutive satisfactory  
11 ratings, shall be awarded to the terminal, unless the terminal has  
12 received an unsatisfactory compliance rating as a result of any  
13 inspection conducted in the interim between the consecutive  
14 inspections conducted under subdivision (d), or the motor carrier  
15 is rated unsatisfactory by the department following a controlled  
16 substances and alcohol testing program inspection. The certificate  
17 authorized under this paragraph shall not be awarded for  
18 performance in the administrative review authorized under  
19 paragraph (2). However, the certificate shall include a reference to  
20 any administrative reviews conducted during the period of  
21 consecutive satisfactory ratings.

22 (2) Unless the department's evaluation of the motor carrier's  
23 safety record indicates a declining level of compliance, a terminal  
24 that has attained two consecutive satisfactory compliance ratings  
25 assigned following inspections conducted pursuant to subdivision  
26 (d) is eligible for an administrative review in lieu of the next  
27 required inspection, unless the terminal has received an  
28 unsatisfactory compliance rating as a result of any inspection  
29 conducted in the interim between the consecutive inspections  
30 conducted under subdivision (d). An administrative review shall  
31 consist of all of the following:

32 (A) A signed request by a terminal management representative  
33 requesting the administrative review in lieu of the required  
34 inspection containing a promise to continue to maintain a  
35 satisfactory level of compliance for the next 25-month inspection  
36 term.

37 (B) A review with a terminal management representative of the  
38 carrier's record as contained in the department's files. If a terminal  
39 has been authorized a second consecutive administrative review,



1 the review required under this subparagraph is optional, and may  
2 be omitted at the carrier's request.

3 (C) Absent any cogent reasons to the contrary, upon  
4 completion of the requirements of subparagraphs (A) and (B), the  
5 safety compliance rating assigned during the last required  
6 inspection shall be extended for 25 months.

7 (3) Not more than two administrative reviews may be  
8 conducted consecutively. At the completion of the 25-month  
9 inspection term following a second administrative review, a  
10 terminal inspection shall be conducted pursuant to subdivision (d).  
11 If this inspection results in a satisfactory compliance rating, the  
12 terminal shall again be eligible for an administrative review in lieu  
13 of the next required inspection. If the succession of satisfactory  
14 ratings is interrupted by any rating of other than satisfactory,  
15 irrespective of the reason for the inspection, the terminal shall  
16 again attain two consecutive satisfactory ratings to become  
17 eligible for an administrative review.

18 (4) As a condition for receiving the administrative reviews  
19 authorized under this subdivision in lieu of inspections, and in  
20 order to ensure that compliance levels remain satisfactory, the  
21 motor carrier shall agree to accept random, unannounced  
22 inspections by the department.

23 SEC. 2. No reimbursement is required by this act pursuant to  
24 Section 6 of Article XIII B of the California Constitution because  
25 the only costs that may be incurred by a local agency or school  
26 district will be incurred because this act creates a new crime or  
27 infraction, eliminates a crime or infraction, or changes the penalty  
28 for a crime or infraction, within the meaning of Section 17556 of  
29 the Government Code, or changes the definition of a crime within  
30 the meaning of Section 6 of Article XIII B of the California  
31 Constitution.

